

U.S. Application No. 10/614,105

REMARKS

The Applicants request reconsideration of the rejection.

Claims 1, 3-5, and 7-9 remain pending.

The Applicants submitted an Information Disclosure Statement and Form PTO-1449 on July 8, 2003, concurrently with the application. However, the Examiner has crossed out the Japanese reference listed on the Form PTO-1449. The Applicants submit that because the required statement of relevancy is set forth in the specification, no further explanation or translation is necessary. The Applicants respectfully request that the Examiner include an initialed Form PTO-1449 with the next Patent Office communication. A copy of the Form PTO-1449 filed on July 8, 2003 is attached for the Examiner's convenience.

Claims 1-5 and 7-9 stand rejected under 35 USC §112, first paragraph, as failing to comply with the enablement requirement. Without admitting to the propriety of the rejection, and to focus examination after final rejection, the claim 1 has been amended to recite that each of the reagent dispensing probes is arranged to suck reagent from one of the reagent containers, and that at least one pair of the reagent dispensing probes is arranged to inject the reagent into the reaction cell at the same dispensing position of the reaction disk. Further, claim 1 has been amended to recite that the reagent disks rotate independently of each other. The Applicants reserve the right to all embodiments of the invention.

Claims 1-5 and 7-9 further stand rejected under 35 USC §103(a) as being unpatentable over Umetsu, et al., US 5,051,238 (Umetsu) in view of Ginsberg, et al., US 4,276,051 (Ginsberg). The Applicants traverse as follows.

Claim 1 has been amended to include the subject matter of claim 2, and thus now recites a controller for controlling the reagent disks and reagent probes so that

U.S. Application No. 10/614,105

only one of the reagent dispensing probes sucks the reagent from the reagent container on one of the reagent disks in a predetermined unit cycle time. The Applicants refer the Examiner to page 12, line 28 through page 13, line 13 of the specification, which describes an alternating-cycle scheme for reagent aspiration. Specifically, lines 9-11 set forth that "two probes do not simultaneously approach to the reagent disk in the same cycle." Further, page 13, line 14 through page 16, line 20 describe several advantages of embodiments that employ this feature, alone or in conjunction with other features, including the injection of reagent by at least one pair of probes into the reaction cell at the same dispensing position of the reaction disk..

Neither Umetsu nor Ginsberg, however, discloses or even fairly suggests these features or the advantages flowing therefrom. In particular, although the Examiner cites Ginsberg as teaching the claimed injection of reagent into the reaction cell at the same dispensing position, the example cited by the Examiner discloses two different dispensing positions 18" and 18"". Respectfully, the Examiner's interpretation of the claim limitation is at odds with the meaning given by the Applicants themselves as their own lexicographer, and thus is outside the "broadest reasonable interpretation" of the limitation.

In addition, neither Umetsu nor Ginsberg discloses the controller of claim 2, now incorporated into claim 1. Furthermore, the rejection does not address the specifics of the controller, and particularly the requirement for the controller to control the reagent disks and the reagent probes so that only one of the reagent dispensing probes sucks the reagent from the reagent container on one of the reagent disks in a predetermined unit cycle time.

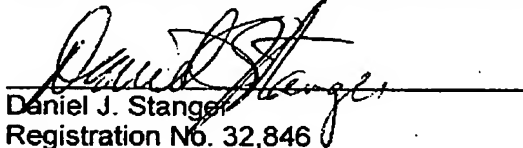
In view of the foregoing amendments and remarks, the Applicants request reconsideration of the rejection and allowance of the claims.

U.S. Application No. 10/614,105

To the extent necessary, Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Mattingly, Stanger & Malur, P.C., Deposit Account No. 50-1417 (referencing attorney docket no. KAS-187).

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.


Daniel J. Stanger
Registration No. 32,846DJS/sdb
(703) 684-1120